

Notice of Allowability

Application No.

10/690,891

Examiner

Stuart W. Snyder

Applicant(s)

BROWN ET AL.

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1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Restriction/Election Response (1/21/2007).
2. ☒ The allowed claim(s) is/are 1-15.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

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DETAILED ACTION

New Examiner

1. The Examiner and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Examiner Stuart W. Snyder, PhD, Group Art Unit 1648.

Election/Restrictions

2. Applicant's election of Group III, species GGTI-286 in the reply filed on 1/21/2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 1, 4-6 and 9-10 are subject of examination; claims 2-3, 7-8 and 11-15 are withdrawn from examination pending examination of Group III, species GGTI-286.

Allowable Subject Matter

3. Claims 1, 4-6 and 9-10 are allowable (see statement of allowability below). The restriction requirement amongst Groups I-IV, as set forth in the Office action mailed on 1/16/2007, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claims 2-3, 6-8 and 11-15, directed to species of the generic method of claim 1 are no longer withdrawn from

consideration because the claim(s) requires all the limitations of an allowable claim.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Claim 1. A method for reducing permissiveness of human cells to replication of a human pathogenic Flaviviridae virus predetermined (i) to lack any C-terminal CXXX box; (ii) to lack prenylated viral protein, and (iii) to be replication-dependent on host protein prenylation, the method comprising steps:

- (a) Contacting human cells subject to infection by the virus with an effective amount of a selective inhibitor of a prenylation enzyme of the

cells, wherein the enzyme is selected from the group consisting of an HMG CoA reductase and a prenyltransferase; and
(b) confirming a resultant reduction in permissiveness of the cells to replication of the virus.

Claim 3. The method of claim 1, wherein the enzyme is HMG CoA reductase and the inhibitor is selected from the group consisting of: atorvastatin, pravastatin, lovastatin, simvastatin, fluvastatin, and rosuvastatin calcium.

Authorization for this examiner's amendment was given in a telephone interview with Richard Aron Osman, JD, PhD (Reg. No 36,627) on 3/8/2007.

5. The following is an examiner's statement of reasons for allowance: Claims 1-15, as amended, are free of and are not fairly suggested by art at the time of the invention. The claimed invention allows a novel approach to anti-viral therapy, especially in the field of anti-HCV therapy. The closest reports of similar discoveries, cited in Applicants' specification, involve viral proteins that are prenylated (see Specification, pages 2-3) from genetically unrelated viruses. Another report not cited by Applicants, involves genome-wide analysis of genes and gene clusters that are modified during the course and as a result of HCV infection (see Su, et al. 2001). Although the authors demonstrate in vitro modulation of cellular fatty acid metabolism and reduction of HCV synthesis in response to certain small molecules known to interfere with fatty acid

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metabolism, there is no suggestion of interfering with the specified enzymes of the present invention.

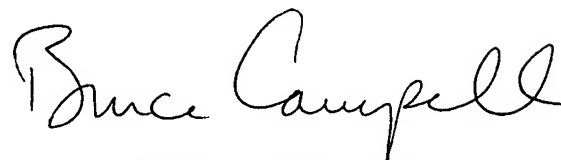
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stuart W. Snyder whose telephone number is (571) 272-9945. The examiner can normally be reached on 9:00 AM-5:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce R. Campell can be reached on (571) 272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Stuart W Snyder
Examiner
Art Unit 1648

SWS



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